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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,982	12/20/2001	Joel C. Barrish	QA0238 NP	1428

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EXAMINER

ANDERSON, REBECCA L

ART UNIT PAPER NUMBER

1626

DATE MAILED: 05/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,982

Applicant(s)

BARRISH ET AL.

Examiner

Rebecca L Anderson

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☒ Claim(s) 1-14 and 16-22 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

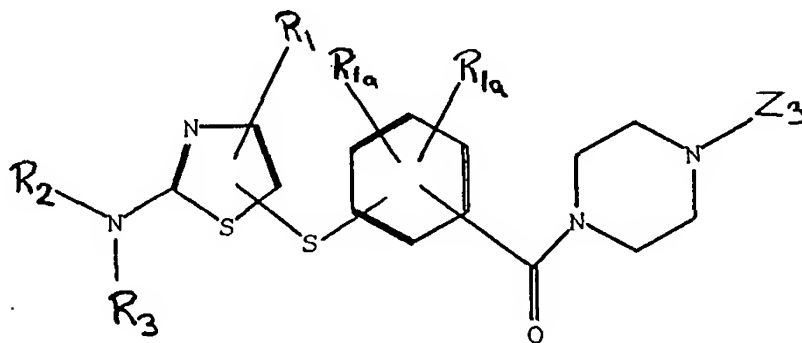
Applicant's election with traverse of Invention I, claims 1-19, in Paper No. 4 is acknowledged. The traversal is on the ground(s) that the examiner failed to establish that a serious burden in search would result from the restriction. This is not found persuasive because the independent and distinct inventions would require different searching strategies for each group. Searching all inventions would require separate searches in the classification system (the compounds are searched in multiple subclasses in classes 544, 546, and 548, while the methods of use are searched in multiple subclasses of class 514). Moreover, the examiner must perform a commercial database search on the subject matter of each group in addition to a paper search, which is quite burdensome to the examiner.

Therefore, the requirement is still deemed proper and is therefore made FINAL.

Generic Concept

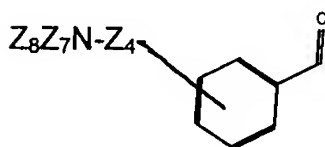
The election of example 76 has resulted in the following generic concept:

The compound of formula I with the following structure



Art Unit: 1626

wherein:

 Z_3 is $C(O)R_6$. R_1 is hydrogen, or R_6 . R_{1a} is hydrogen, R_6 , or $-OR_6$.One of R_2 or R_3 is hydrogen or $-Z_4-R_{6a}-$ wherein Z_4 is a single bond, and the other is

wherein Z_4 is alkyl and Z_7 and Z_8 are hydrogen, or $-Z_4-Z_{6a}$ wherein Z_4 is a single bond and Z_{6a} is alkyl.

 R_6 and R_{6a} are alkyl.

Looking at the formula in claim 1 in reference to the above formula:

 Q_1 is thiazolyl. Z is $-S-$ Q_2 is phenyl (substituted by the depicted Z_3 substituted piperazinyl carbonyl group).

The remaining subject matter of claims 1-14 and 16-19 that is not drawn to the elected invention identified supra and the subject matter of claims 15 and 20-22 stand withdrawn from consideration as being drawn to a non-elected invention, 37 CFR 1.142(b). The withdrawn subject matter of claims 1-22 is properly restricted as it differs materially in structure and element from the elected subject matter identified supra so as to be patentably distinct there from. A reference, which anticipated but the elected subject matter would not even render obvious the non-elected subject matter.

Art Unit: 1626

Accordingly, restriction, as has been required, is proper. In this instance, the corresponding subject matter of group II (claims 20-22) will also be examined.

Objections

Claims 1-14, 16-19 and 20-22 are objected to as containing non-elected subject matter. Claims 1-14, 16-19 and 20-22 presented drawn solely to the elected invention as identified supra would appear allowable.

Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rebecca L. Anderson whose telephone number is (703) 605-1157. Mrs. Anderson can normally be reached Monday through Friday 7:00AM to 3:30PM.


If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Joseph McKane, can be reached at (703) 308-4537.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone numbers are (703) 308-1235 and (703) 308-0196.

A facsimile center has been established. The hours of operation are Monday through Friday, 8:45AM to 4:45PM. The telecopier numbers for accessing the facsimile machine are (703) 308-4242, (703) 305-3592, and (703) 305-3014.



Rebecca Anderson
Patent Examiner
Art Unit 1626, Group 1620


for _____
Joseph McKane
Supervisory Patent Examiner
Art Unit 1626, Group 1620